

### **REMARKS/ARGUMENTS**

Claims 1-23 are presented for examination. Claims 6, 10 and 17-20 have been canceled in a previous communication. Claims 1-5, 7-9, 11-16 and 21-23 are pending in this application. In an Official Office Action dated April 6, 2005, claims 1-5, 7-9, 11-16 and 21-23 were rejected. The Applicants thank the Examiner for examination of the claims pending in this application and address the Examiner's comments below.

Applicants herein amend claims 1, 8, 21 and 22. These changes are believed not to introduce new matter, and their entry is respectfully requested. Claims 1, 8, 21 and 22 have been amended to expedite prosecution. In making this amendment, Applicants have not and are not narrowing the scope of the protection to which the Applicants consider the claimed invention to be entitled and do not concede that the subject matter of such claims was in fact disclosed or taught by the cited prior art. Rather, Applicants reserve the right to pursue such protection at a later point in time and merely seek to pursue protection for the subject matter presented in this submission.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and withdraw them.

#### **I. Rejections under 35 U.S.C. § 112.**

The Examiner rejects claims 1 and 8 as being indefinite for using the term "topologically close." The Examiner further asserts that the term "topologically close" is not defined by the claim and the specification does not provide a standard for ascertaining the requisite degree of understanding. The Applicants respectfully disagree with the Examiner's assessment.

The term "topologically close" is defined and explained in the specification on page 14 beginning at line 11. The specification explains that topologically close means the average latency associated with a connection between the client and front-end as claimed in the invention is less than the average latency associated

with a connection between a client and a data server. One of reasonable skill in the art at the time of the invention would find the explanation of the term "topologically close" definite and would be reasonably apprised of the scope of the invention. To expedite prosecution, the Applicants have amended claims 1 and 8 to read "logically close" instead of "topologically close." The term "logically close" is described as being equivalent to "topologically close" on page 14 of the specification.

## **II. Rejections under 35 U.S.C. § 103.**

Claims 1-5, 7-9, 11-16 and 21-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,553,413 ("Leighton") in view of U.S. Patent No. 6,047,327("Tso"). Applicants respectfully traverse these rejections in light of the following remarks and respectfully request reconsideration.

MPEP §2143 provides:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaching. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The claims as currently pending recite features lacking in the applied references. For example, independent claim 1 recites, among other things, "an enhanced communication channel between the first and second computers." Neither Leighton nor Tso teaches or suggests as enhanced communication channel between two intermediary servers. The specification explains on page 9 beginning at line 24 that an enhanced communication channel offers lower latency, prioritization services, higher security transport, or other features that improve upon the basic transport mechanism defined for Internet data transport.

The communication dated April 6, 2005 fails to identify any reference that teaches or suggests such a communication channel. The prior art, either singularly or in combination, must teach or suggest all of the claim limitations for a rejection under 35 U.S.C. §103 to prevail. Leighton in view of Tso fails to disclose "an enhanced communication channel" as recited in claim 1. Accordingly, the Applicants respectfully submit that claim 1 is patentable over Leighton in view of Tso and request that the rejection be withdrawn. Claims 2-5 and 7 depend from claim 1 and are, for at least the same reason, patentable over Leighton in view over Tso.

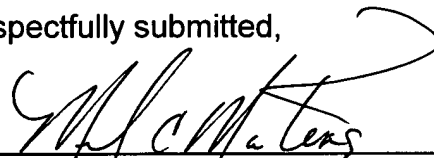
For as least the same aforementioned reasons, claims 8, 21 and 22 are patentable over Leighton in view of Tso. Claims 9 and 11-16 depend from claim 8 and are, for at least the same reasons, patentable over the cited references. Claim 23 depends from claim 22 and is patentable over Leighton in view of Tso for at least the same reasons.

### **III. Conclusion.**

In view of all of the above claims 1-5, 7-9, 11-16 and 21-23 are believed to be allowable and the case in condition for allowance which action is respectfully requested. This response is filed with a One Month Petition for Extension of Time and the required fee of \$60. Should any other fee be required, please charge Deposit 50-1123.

August 1, 2005

Respectfully submitted,



Michael C. Martensen, Reg. No. 46,901  
Hogan & Hartson LLP  
One Tabor Center  
1200 17th Street, Suite 1500  
Denver, Colorado 80202  
(719) 448-5910 Tel  
(303) 899-7333 Fax